

1887-008 Chancery Causes: J. W. Divine vs. Margaret Ely &
Lee Co.

1 Plat

CA-Contract Dispute
T-Property

To The Honorable John A. Kelly
Judge of the Circuit Court of
Lee County, Virginia

Your orator J. W. Divine Humbly
complaining would respectfully
represent, that, he is the owner
in fee of a moiety, of a large
tract of land situated in Lee
County near Cumberland Gap and
known as the Nathaniel Fields

acre survey, the lands consist of
one tract of mountain land lying
on the South side of Cumberland
Mountain & N. side of Poor Valley ridge.

The other moiety is owned by the
infant children of the late Robert
M. Ely deceased, viz: Maggie Ely
~~Mary~~ Ely and Anne Ely,

And these infants own other valuable
lands adjoining this tract upon the
East & South, and as above hinted
this tract is chiefly valuable for
timber & minerals. The object of
this bill is to have partition made
of these lands between your orator
and the said Elys; giving each
an equal half in value, and if
desired & thought proper assigning the
said Elys their share adjoining the

other lands owned by them.

The premises considered, your orator
prayer is that said Maggie Ely Susan
Ely and Orrin Ely be made par-
ties defendant to this bill and
answer its allegations, on oath
by a guardian ad litem, to be
appointed for them. And on a
hearing a decree be rendered direct-
ing partition to be made of said
lands, and for all other further
and general relief they may suppose
wise.

A. L. Pridemore
P. 2,

Clk \$10.32
 G. A. L. 5.00
 Comrs 119.00
 3 1.50
 4 15.00

600 60 150.32
 3.25
 154.07
 3.25
 2 157.38
 78.65

P

J. W. Divine

v. Bill Chy

Margaret Ely et al

1886, Aug. G. A. L. assigns
 decree placing an
 issue docket, and
 for partition and
 v. Aug. Decree & cont'd
 in prior partitioned
 1887 Mr. Decree
 final O. B. 24

back line of said survey, the
Kentucky & Virginia State line, and
all the land in said survey lying
west of this line is and shall be
that of the plff. And beginning at
the said spot shown by letter, "D"
and running due north, all the land
to the East thereof it is adjudged, ordered
and decreed shall be taken and held
by the defendant, free from the
claim of the plff, to be held by
them in fee as shown by the metes
and bounds of said report and
plat, And the guardian of said in-
fants will pay to the plff one half
of the costs of this partition to be
taxed by the clerk, And the clerk
of this Court, will certify to the clerk
of the County Court, the former decree
of this Court making partition of
said lands, said report and plat
together with this decree, to be by
him the said County Court clerk re-
corded in his deed Book kept for
the recordation of deeds, & will
index the same in the name of the
parties as in deeds. The plff will
then make and execute, a deed
of release and deliver the same to the
guardian of the defendant to be by
him received for the said eastern half

of said land so here assigned, but he will not deliver the same until A. L. Oudemore who is hereby appointed a special Commissioner for the purpose shall make up the part of said infant a deed of release with Covenants of special Warranty, to the plaintiff for the land so herein decreed to him - Being the western half of aforesaid. And no further action being necessary at this time the cause is retired from the docket with leave to either party to re-instate the cause for the purpose of enforcing this decree. And the cause is so retired.

Virginia Lee County Court Clerk's office the 21st day of June 1887. The foregoing decrees report & Plat of the Partition of land between J. W. Divine and the heirs of Robert M. Ely deceased, was this day filed in this office and admitted to record.

Liste

John R. Gibson clerk.

J. W. Divine

23 Decree
Final

Margaret Ely etc

March 7, 1887

Entered Page 35

Recorded In Deed

Book No 12 P. 333-4th

J. R. Gibson clk.

Enter this
1887
March 1887

J. W. Divine - - - Plff
against
Margaret Ely et al. defts- } Dr Chy.

On the motion of the plff this cause is placed upon the issue docket this day. and on his further motion John M. Morgan is appointed guardian ad litem for the defendant Margaret ~~Sutton~~ Ann Ely, and on his motion leave is granted him to file his answer and the same is accordingly done And thereupon the cause came on this day to be heard upon the ~~papers~~ bill of the plff and answer of John M. Morgan guardian ad litem for the infant aforesaid and was argued by counsel. On consideration whereof and for reasons appearing to the Court it is adjudged ordered and decreed that Charles Johnson and Mr R. Bales & H. J. Richmond be and they are hereby appointed Special Commissioners, whose duty it shall be to go upon

the Canal in the bill mentions
and lay off and assign to the
plff one half in value of the
said Nathan field acre
survey, and to the defendant
assign the other, having due re-
gard to water timber minerals
&c. They will make out a
plat showing the manner of their
portion, and if convenient assign
to the plff his share on the west
end adjoining his other land;
and to the defendant the east
end adjoining their other land.
But in so doing they will take
into consideration the true value
of the land and assign one half
each in value. They will report
their action to this Court accom-
panied by the plat herein di-
rected, at some future term of
this Court & the cause is continued.

J. W. Divino

v3 Decree
For Partition

Margaret Ely dec
Aug. 1. '86
Enter this page 50. 8

Enter this
Aug 28 '86.
J. W. Divino

Virginia

At a Circuit Court continued, and
held for Lee County at vetc. Aug. 28 / 1886.

J. H. Divine

Plff

vs

J. M. Clary

Margaret Ely et al

Defts

++ ++ ++ On consideration whereof, and for
reasons appearing to the court, it is adjudged,
ordered, and decreed that Charles Johnson, J. H.
Boles & W. L. J. Hutchinson be and they are hereby
appointed special Commissioners, whose
duty it shall be to go upon the land in the
bill mentioned and lay off and assign to the
Plff, one half in value of the said Kathaw
field acre survey, and to the defendants
assign the other half, having due regard to
water timbers minerals and ores. They will make
out a fair plat, showing the manner of
their partition; and if convenient assign to
the plaintiff his share on the west end
adjoining his other lands, and to the Defts.
the east end adjoining their other lands;
But in so doing they will take into consid-
eration the true value of the land and assign
one half each in value. They will report their
action to this court, accompanied by the plat
herein directed, at some future term & the
Cause is continued.

Copy Text. L. H. J. H. L. L.

J. W. Divine
N. 3. Sec. 1
Margaret Ely et al.
August term 1886

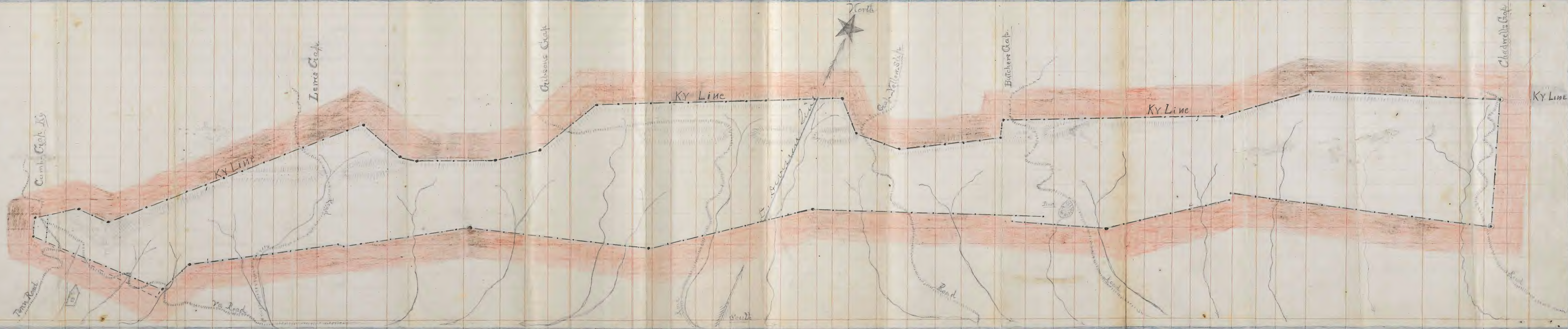
Executed by delivering
a true & full Copy of
the within one to C. B.
Johnston one to
H. C. Richmond &
one to W. R. Boler
Sept 18 1886

S. H. Leary ss
for R. S. Leary
S. Y. C.

Oct 15 fee 1.18

Plat of Nathan Fields Survey
Patented Mar 23^d 1795.

Containing 4237 acres
and owned by
J. H. Divine-Sawwell Farm
and the heirs of
R. M. Ely de. Mount Hill va
a division made by order of the
Circuit Court. August 1886
The west half - 2168 1/2 acres to
J. H. Divine
The east half - 2168 1/2 acres to
Ely Heirs.
W. B. Johnson
N. S. Childs and
W. R. Bales
Commissioners
Mar. 15, 1887
Scale
100 rods to the inch
W. B. Johnson
Topographical Surveyor



J. H. Lawrence

Dec 24

1881

1881

Filed for

1881

Virginia,

At a circuit court continued and held for Lee County at the court-house thereof, Aug. 28th, 1886.

J. W. Divine,

against

Margaret Ely et als.

Plff.)

{ In Chy.

Defts.)

On the motion of the plff. this cause is placed upon the issue docket this day, and on his further motion John M. Morgan is appointed guardian ad litem for the defendants, Margaret, Mary and Ann Ely, and on his motion leave is granted him to file his answer, and the same is accordingly done. And thereupon the cause came on this day to be heard upon the bill of the plff. and answer of John M. Morgan, guardian ad litem for the infants aforesaid, and was argued by counsel. On cerisedation whereof and for reasons appearing to the court it is adjudged, ordered and decreed that Charles Johnson, Wm.. R. Boles & H.C.T. Richmond be and they are hereby appointed special commissioners, whose duty it shall be to go upon the lands in the bill mentioned and lay off and assign to the plff. one half in value of the said Nathan Field _____ acre survey, and the defendants assign the other, hvaing due regard to water, timber, minerals & ores. They will make out a plat showing the manner of their partition, and if convenient assign to the plff. his share on the west end adjoining his other lands; and to the defendants the east end adjoining their other lands, but in so doing they will take into consideration the true value of the lands and assign one half each in value, they will report their action to this court, accompanied by the plat herein directed, at some future term of this court, & the cause is continued.

We, the undersigned commissioners, appointed by the Hon. Judge of

the circuit court of Lee county, Va. to lay off a survey of land owned formerly by Robert M. Ely and John G. Newlee, dec'd, known as the Fields survey--respectfully report that the said tract of land was carefully surveyed by C. P. Johnson, one the commissioners, and found 4337 acres in said survey, lying in the State of Virginia, south of Cumberland mountain, beginning near Cumberland Gap and extending eastwardly to Chadwell's Gap, and with ~~Kentucky~~ line back to the beginning, the courses and distances are as follows: Beginning at two large rocks in Jones line and corner to Newlee's Gap tract, thence with Jones 1155 acre survey North 88 E. 280 poles to a stake on west side of a branch, (poplar & black oak gone), thence N. 23 E. 80 ps. to two small pines (blk. oak & dogwood gone) thence N. 58 E. 333 poles to a spotted oak, marked as a side line, thence offset N. 88 E. $9\frac{1}{2}$ poles to a poplar, thence N. 58 E. 287 poles to two white oaks on a spur, (one gone, but stump there), thence N. $72\frac{1}{2}$ E. 399 poles to a poplar stump in edge of Poor Valley (poplar cut down and white oak marked), thence N. $53\frac{1}{2}$ E. 376 ps. to a large rock and three small pines on a spur of the mountain (oaks & chestnuts gone, but stump still there) thence N. 68 E. 512 poles to a poplar marked as side lines, thence (offset) S. 5 E. 15 poles to a maple near a large poplar (here the lines lap about fifty poles as shown on plat), thence N. $70\frac{1}{4}$ E. 142 poles to a large poplar on a branch, thence N. 54 E. 280 poles to a poplar marked as side line, thence (offset) N. 16 W. 14 poles to a large white oak marked as a side line, thence N. 74 E. 584 poles to upper corner (40 poles east of Chadwell's Gap road) Black & white oaks down, but stumps still there, small chestnut and other bushes marked as corner, thence N. $19\frac{1}{2}$ W. 284 poles to Ky line in Chadwell's Gap, thence from Beginning corner N. 19 W. 60 poles to Ky. line in Cumberland Gap, thence N. 53

E. 70 poles to top of cliffs, thence E.70 poles to top of mountain, thence with general line of the mountain N.45 E.610 poles to top of divide east of Lewis Gap, thence S.73 E.108 poles to top of mountain, and with top N.78 E.36 poles, thence N.65 E.175 poles to a large pine on top of mountain, thence N.53 E.100 poles to a pine bush, thence N. 27 E.160 poles, thence N.65 E.547 poles (small angles reduced to a straight line), thence S.45 E. 80 poles, thence N.85 E.100 poles, thence N.60 E.225 poles, thence N.15 W. 40 poles, thence N.65 E. 485 poles (small angles reduced to straight line), thence N.50 E.200 poles , thence N.69 E.425 poles (small angles reduced to a straight line) to upper corner in Chadwell's Gap, containing 4337 acres. After a careful examination. we found the quality of the land about the same and we have given to the heirs of R.M.Ely, dec'd, one half or 2168½ acres on the east end of said tract, adjoining their other lands. And have given to J.W.Divine the west half or 2168½ acres adjoining his other lands. We found some timber cut from the west half of said tract but learned that it was used by John G.Newlee in his lifetime. The division line begins on a small white oak, maple and chest. oak, marked D, Division line on said plat, a small chestnut oak and sassafras marked as pointers, and runs due north to the back line. This corner is ⁱⁿ a low gap of a spur of the mountain north of Z.S.Gibson's northeast corner & S.53½ W.110 poles from first corner in Fields line west of Charles Baileys. The division line, offsets, & lap mentioned in this report is shown on the plat. The small angles on top of the mountain were reduced to a straight line as before stated. All of which is respectfully submitted. March 18th, 1887.

C.D.Johnson,
W. R. Roles,
H.C.T.Richmond,

Comrs.

Virginia,

At a circuit court continued and held for Lee County, at the court-house thereof, March 31st, 1887.

J.W.Divine,

Plff.

against

3 } In Chy.

Margaret Ely et als.

Defts.

This cause came on again this day to be heard upon the papers formerly read in the cause, and the report of C. B. Johnson, W. R. Poles and H. C. T. Richmond, commissioners, filed March 18th, 1887, to which there are no exceptions, and was argued by counsel. On consideration of which, and for reasons appearing to the court, said report and accompanying plat are and each of them is confirmed and made final. And it is further adjudged, ordered and decreed that the plaintiff take and hold free from the claim of the defendants in fee the lot of land so assigned him being the western end of said survey as marked on said plat. Beginning at "D" on a small white oak maple and chestnut oak and small sassafras marked as pointers and shown on the plat as "D", thence due north to the back line ~~xx~~ of said survey, the Kentucky & Virginia State line, and all the land in said survey lying west of this line is and shall be that of the plff. And beginning at the said spot shown by letter "D" and running due north all the land to the east thereof it is adjudged, ordered and decreed shall be taken and held by the defendants free from the claim of the plff. to be held by them in fee as shown by the metes and bounds of said report and plat. And the guardian of said infants will pay to the plff. one half of the costs of this partition to be taxed by the clerk. And the clerk of this court will certify to the clerk of the county

court the former decree of ~~this~~ court making partition of said land
, said report and plat, together with this decree, to be by him
the said county court clerk, recorded in his deed book kept for the
recordation of deeds. He will index the same in the name of the
parties as in deeds. The pliff. will then make and execute a deed of
release and deliver the same to the guardian of the defendants to be
by him recorded for the said eastern half of said land so here as-
signed, but he will not deliver the same until A.L.Pridemore, who is
hereby appointed a special commissioner for the purpose, shall make
upon the part of said infants a deed of release with covenants of
special warranty to the pliff. for the lands so herein decreed to him.
And no further action being necessary at this time, the cause is re-
tired from the docket with leave to either party to reinstate the
same for the purpose of enforcing this decree. And the cause is
so retired.

Virginia, Lee County Court Clerk's Office, the 21st day of June, 1887.

The foregoing decrees, report & plat of partition of land between
J.W.Divine and the Heirs of Robert M.Ely, deceased, was this day
filed in this office and admitted to record.

Teste: John R.Gibson, clerk.

A copy from D.B.No.22 page 333 &c., Teste: B. M. Morgan, clerk.

A copy from D.P.No. 22 page 323 sec. 1, Teste: _____, clerk.

Teste: John H. Gibson, clerk.

Filed in this office and admitted to record.

J.W. Divine and the Heirs of Robert W. Nix, deceased, vs this day

The foregoing decrees, report & plat of partition of land between

Virginia, Dec County Court Clerk's Office, the 21st day of June, 1887.

so certified.

same for the purpose of enforcing this decree. And the cause is

J. W. Divine
vs { Partition
Margaret Ely et al.
copy.

Copy - - - - \$1.50.
Referred to in Cochrane's depo.
(14)

recognition of books. The said index the same in the name of the
the said county court clerk, recorded in his deed book kept for the
, said report and plat, together with this decree, to be by him
court the former decree of this court making partition of said land

1211

Received of C. T. Duncanson Comr in the
Chancery Cause of A. L. Pridemore vs
James W Orr & others Six dollars
and Thirty two cents clerks cost in
said cause up to March 1886. This
20th day of July 1886.

J. A. G. Hyatt c.c.

1111

Received of C. T. Duncanson Comr in
the Chancery cause of A. L. Pridemore
vs. James W Orr & others, fifteen
dollars my attorney's fee in said cause
and Ten dollars estimated costs,
making in all paid me the sum of
Twenty five dollars This 20th day of
July 1886.

A. L. Pridemore

1536
460
2021

"2"

"1"